



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2020-0400; EPA-R04-OAR-2020-0401; FRL-9274-02-R4]

#### Air Plan Approval; Georgia;

#### Atlanta Area Emissions Inventory and Emissions Statements Requirements for the 2015 8-Hour Ozone Standard

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing approval of State Implementation Plan (SIP) revisions submitted by the State of Georgia through the Georgia Environmental Protection Division (GA EPD) on July 2, 2020, and November 4, 2021, to address the base year emissions inventory requirements and emissions statements requirements for the 2015 8-hour ozone national ambient air quality standards (NAAQS) for the Atlanta, Georgia 2015 8-hour ozone nonattainment area (hereinafter referred to as the “Atlanta Area”). These requirements apply to all ozone nonattainment areas in Georgia. These actions are being taken pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule is effective [Insert 30 days after date of publication in the **FEDERAL REGISTER**].

**ADDRESSES:** EPA has established dockets for these actions under Docket Identification Nos. EPA-R04-OAR-2020-0400 and EPA-R04-OAR-2020-0401. All documents in these dockets are listed on the [www.regulations.gov](https://www.regulations.gov) web site. Although listed in the index for each docket, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through

www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9088. Ms. Bell can also be reached via electronic mail at [bell.tiereny@epa.gov](mailto:bell.tiereny@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On October 1, 2015, EPA strengthened the 8-hour ozone NAAQS, lowering the level of the NAAQS from 0.075 parts per million (ppm) to 0.070 ppm. *See* 80 FR 65292 (October 26, 2015).<sup>1</sup> Effective August 3, 2018, EPA designated a seven-county area in and around metropolitan Atlanta, consisting of Bartow, Clayton, Cobb, Dekalb, Fulton, Gwinnett, and Henry Counties in Georgia, as a Marginal nonattainment area for the 2015 Ozone NAAQS. *See* 83 FR 25776 (June 4, 2018). Based on the nonattainment designation, Georgia was required to develop a SIP revision addressing certain CAA requirements for the Atlanta Area. The revision must include, among other things, a comprehensive, accurate, current inventory of actual emissions from all emissions sources in the nonattainment area, known as a "base year inventory," pursuant to CAA section 182(a)(1) and emissions statements requirements pursuant to section 182(a)(3)(B). On July 2, 2020, the State of Georgia, through GA EPD, submitted SIP revisions

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<sup>1</sup> The 2015 Ozone NAAQS was promulgated on October 1, 2015, published on October 26, 2015, and effective December 28, 2015.

addressing the base year emissions inventory and emissions statements requirements related to the 2015 8-hour ozone NAAQS for the Atlanta Area.<sup>2</sup> Subsequently, Georgia submitted an updated SIP revision on November 4, 2021, further addressing the emissions statements requirements.<sup>3</sup> The SIP revision addressing the emissions statements requirements included modifications to Georgia Rule 391-3-1-.02(6)(a)4.(iii).

On November 26, 2021, and subsequently on December 2, 2021, EPA published Notices of Proposed Rulemaking (NPRMs) proposing to approve the July 2, 2020, SIP revision regarding the base year emissions inventory and the July 2, 2020, and November 4, 2021, SIP revisions regarding the emissions statements requirements for the Atlanta Area for the 2015 8-hour ozone NAAQS. *See* 86 FR 67409 and 86 FR 68449. More information on EPA’s analysis of Georgia’s July 2, 2020, and November 4, 2021, SIP revisions, and how these SIP revisions address the above-mentioned requirements, are provided in EPA’s November 26, 2021, and December 2, 2021, NPRMs. Comments on EPA’s November 26, 2021, NPRM were due on December 27, 2021. EPA received two comments on EPA’s November 26, 2021, NPRM.<sup>4</sup> EPA’s response is provided in Section II, below. Comments on EPA’s December 2, 2021, NPRM were due on or before January 3, 2022. No comments were received on EPA’s December 2, 2021, NPRM.

While EPA did not receive comments on the December 2, 2021, NPRM, EPA is herein providing non-substantive clarifications on the December 2, 2021, NPRM. First, EPA would like to clarify that EPA received GA EPD’s draft SIP submittal in a July 2, 2020, SIP revision. EPA subsequently received GA EPD’s draft SIP revision supplementing the original SIP

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<sup>2</sup> On July 2, 2020, GA EPD also submitted a SIP revision providing a certification that existing SIP-approved Georgia rules satisfy the permit program requirements found in section 172(c)(5) of the CAA. EPA acted on this SIP revision in a separate rulemaking. *See* 87 FR 3677 (January 25, 2022).

<sup>3</sup> On November 4, 2021, GA EPD also submitted a SIP revision with changes to Rule 391-3-1-.02(2)(rr), “Gasoline Dispensing Facility – Stage I”. EPA will act on that SIP revision in a separate rulemaking.

<sup>4</sup> EPA received two anonymous comments, which displayed the same email address, on the November 26, 2021, NPRM. Although EPA received these comments separately, the contents of these comments are duplicative in nature. In the “Response to Comments” section below, EPA’s “Response” addresses both comments received on November 30, 2021. These comments are available in Docket No. EPA-R04-OAR-2020-0400.

submittal, along with a parallel processing request, on July 1, 2021, through a letter dated June 28, 2021.

Next, EPA notes that the following sentence in the December 2, 2021, NPRM, found in Section II, “Analysis of State’s Submittal,” in the first full paragraph of the first column on page 68451, should have included Barrow, Carroll, Hall, Spalding, and Walton Counties. These counties were inadvertently omitted from the December 2, 2021, NPRM in the sentence that states: “Georgia subsequently amended the regulations to, among other things, include Bartow and Newton Counties thereby covering the entire Atlanta Area.” On November 27, 2009, EPA approved a SIP revision that expanded the applicability of Georgia’s emissions statement requirements to include Barrow, Bartow, Carroll, Hall, Newton, Spalding, and Walton Counties, which are part of the Atlanta 8-hour ozone nonattainment area. *See* 74 FR 62249.

Next, in Section III, “Incorporation by Reference,” of the December 2, 2021, NPRM, on page 68451 in the third column in the second sentence, EPA inadvertently did not include a period after the “4” when referencing GA EPD’s rule 391-3-1-.02(6)(a)4.(iii). Throughout the December 2, 2021, NPRM, the citation “391-3-1-.02(6)(a)4.(iii)” should have been “391-3-1-.02(6)(a)4.(iii)” everywhere it appears.

Lastly, EPA notes a typographical error in the November 26, 2021, NPRM. Specifically, in Section III, “Analysis of State’s Submittal,” of the November 26, 2021, NPRM on page 67411, the NPRM states (emphasis added): “Georgia obtained emissions for the non-road mobile sources from the 2014 NEI. Those emissions were estimated using EPA’s *National Mobile Inventory Model (NMIM) with updated NMIM County Database (NCD) files* from GA EPD. A detailed account of non-road mobile sources can be found in Appendix D of the July 2, 2020, submittal.” Instead of referencing “EPA’s National Mobile Inventory Model (NMIM) with updated NMIM County Database (NCD) files,” EPA should have referenced EPA’s Motor Vehicle Emission Simulator (MOVES) model, and the above sentences should have read (emphasis added), “Georgia obtained emissions for the non-road mobile sources from the 2014

NEI. Those emissions were estimated using EPA's *Motor Vehicle Emission Simulator (MOVES) model* for each ozone nonattainment county. A detailed account of non-road mobile sources can be found in Appendix D of the July 2, 2020, submittal."

## **II. Response to Comments**

As mentioned above, on November 30, 2021, EPA received two comments on the November 26, 2021, NPRM. These two comments are duplicative, so EPA is responding to them as one comment. EPA's comment summary and response are provided below.

**Comment:** The commenter suggested that EPA's November 26, 2021, NPRM is EPA's method of combating and regulating ozone "by releasing ozone in Georgia." The commenter notes that "the source" provides a lot of detail/information but expressed curiosity as to how the regulation of ozone in Georgia would be executed and whether it would cause significant changes in the State's air quality.

**Response:** EPA finds the comments somewhat unclear. The rationale for EPA's proposed action regarding Georgia's emissions inventory is explained in the November 26, 2021, NPRM which includes an explanation concerning the purpose of the emissions inventory for the Atlanta Area. In the November 26, 2021, NPRM, EPA proposed approval of Georgia's SIP revision to address the base year emissions inventory requirements for the Atlanta Area. CAA section 182(a)(1) requires ozone nonattainment areas classified as Marginal or above to submit a comprehensive, accurate, current inventory of actual emissions from all sources of nitrogen oxide (NO<sub>x</sub>) and volatile organic compounds (VOC) in the nonattainment area. Contrary to what the comments may be implying, EPA approval of this inventory does not result in "releasing ozone" or ozone precursors such as VOC or NO<sub>x</sub>. Further, EPA approval of the inventory does not impose any regulations on any sources. EPA is now determining that the July 2, 2020, SIP revision meets the requirements of CAA section 182(a)(1). CAA section 182(a)(1) and corresponding federal regulations cited in the NPRM outline the emissions inventory requirements for areas designated as nonattainment for the 2015 8-hour ozone NAAQS.

EPA is unclear on how the commenter intended to use the term “source.” If the commenter’s reference to “the source” means sources that emit VOC and/or NO<sub>x</sub> within the Atlanta Area, EPA agrees that the July 2, 2020, submittal included sufficient emissions information from sources within the Atlanta Area that emit NO<sub>x</sub> and VOC. If, instead, the commenter’s reference to “the source” means the NPRM, EPA agrees that the NPRM included sufficient information about EPA’s action.

Regarding the commenter’s question related to the execution of regulating ozone in Georgia, the ozone standards are applied, or implemented, by controlling air pollution from emission sources. The CAA requires EPA to set NAAQS for certain pollutants, including ozone, that are considered harmful to public health and the environment and come from numerous and diverse sources. States are required under CAA section 110(a) to submit infrastructure SIPs that implement, maintain, and enforce new or revised NAAQS within three years of EPA issuing the standard (or such shorter period as the EPA Administrator may prescribe). Furthermore, each state that contains all or part of an ozone nonattainment area is required to submit a SIP revision addressing the requirements of CAA sections 172 and 182. In general, the SIP consists of programs, including air quality monitoring, air quality modeling, emission inventories, emission control strategies, and documents (policies and rules) that the state uses to attain and maintain the NAAQS. For further information on how Georgia regulates in accordance with the CAA’s requirements for the ozone standards, please see several ozone regulations in the Georgia SIP online at <https://www.epa.gov/sips-ga/epa-approved-nonregulatory-provisions-and-quasi-regulatory-measures-georgia-sip>.

### **III. Incorporation by Reference**

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Georgia Rule 391-3-1-.02(6), *Source Monitoring*, Paragraph (a)4., *Emission Statements*, state effective on October 25, 2021. EPA has made, and will continue to make, these

materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>5</sup>

#### **IV. Final Actions**

EPA is approving the aforementioned SIP revisions submitted by Georgia on July 2, 2020, and November 4, 2021, addressing the base year emissions inventory and the emissions statements requirements for the 2015 8-hour Ozone NAAQS for the Atlanta Area. EPA has determined that the Atlanta Area base year emissions inventory and the emissions statements requirements SIP revisions meet the requirements for the 2015 ozone NAAQS for the Atlanta Area.

#### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. These actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

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<sup>5</sup> *See* 62 FR 27968 (May 22, 1997).

- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take



effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing these actions and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. These actions are not “major rules” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of these actions must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days from date of publication of this document in the FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of these actions for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule(s) or action(s). These actions may not be challenged later in proceedings to enforce their requirements. *See* section 307(b)(2).

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 28, 2022.

Daniel Blackman,  
*Regional Administrator,*  
*Region 4.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

### **PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### **Subpart (L) - Georgia**

2. In §52.570:

- a. In paragraph (c), amend the table by revising the entry for “391-3-1-.02(6)”; and
- b. In paragraph (e), amend the table by adding an entry for “Atlanta Area Base Year

Emissions Inventory for the 2015 Ozone NAAQS” at the end of the table.

The revision and addition read as follows:

#### **§52.570 Identification of plan.**

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(c) \* \* \*

#### **EPA Approved Georgia Regulations**

<b>State citation</b>	<b>Title/subject</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Explanation</b>
**	**	*	*	*

391-3-1-.02(6)	Source Monitoring	8/1/2013	7/28/2017, 82 FR 35108	Except paragraph (a)4., approved on [Insert date of publication in FEDERAL REGISTER], with a State effective date of 10/25/2021
**	**	*	*	*

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(e) \* \* \*

#### **EPA Approved Georgia Non-Regulatory Provisions**

<b>Name of nonregulatory SIP provision</b>	<b>Applicable geographic or nonattainment area</b>	<b>State submittal date/effective date</b>	<b>EPA approval date</b>	<b>Explanation</b>
**	**	*	*	*
Atlanta Area Base Year Emissions Inventory for the 2015 Ozone NAAQS	Bartow, Clayton, Cobb, Dekalb, Fulton, Gwinnett, and Henry Counties	7/2/2020	[Insert date of publication in FEDERAL REGISTER], [Insert citation of publication]	

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[FR Doc. 2022-04938 Filed: 3/8/2022 8:45 am; Publication Date: 3/9/2022]